

CHAPTER NO. 952

HOUSE BILL NO. 3066

By Representatives Jackson, Briley, Newton

Substituted for: Senate Bill No. 2665

By Senators McNally, Crowe, Graves, Davis, Fowler, Kurita

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10, Part 4, relative to criminal offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-406(a)(2), is amended by deleting the section in its entirety and by substituting instead the following:

(2) Any law enforcement officer who requests that the driver of a motor vehicle submit to a test pursuant to this section for the purpose of determining the alcoholic or drug content of the driver's blood shall, prior to conducting such test, advise the driver that refusal to submit to such test will result in the suspension of the driver's operator's license by the court and, if such driver is driving on a revoked, suspended or canceled license, when the person's privilege to do so is cancelled, suspended or revoked because of a conviction for vehicular assault under §39-13-106, vehicular homicide under §39-13-213, aggravated vehicular homicide under § 39-13-218, or driving under the influence of an intoxicant under §55-10-401, that the refusal to submit to such test will, in addition, result in a fine and mandatory jail or workhouse sentence. The court having jurisdiction of the offense for which such driver was placed under arrest shall not have the authority to suspend the license of a driver who refused to submit to the test if the driver was not advised of the consequences of such refusal.

SECTION 2. Tennessee Code Annotated, Section 55-10-406(a)(3) is amended by deleting the subdivision in its entirety and by substituting instead the following:

(a)(3) If such person having been placed under arrest and thereafter having been requested by a law enforcement officer to submit to such test and advised of the consequences for refusing to do so, refuses to submit, the test shall not be given, and such person shall be charged with violating this subsection. The determination as to whether a driver violated the provisions of this subsection shall be made at the same time and by the same court as the one disposing of the offense for which such driver was placed under arrest. If the court finds that the driver violated the provisions of this subsection, except as otherwise provided in this subdivision the driver shall not be considered as having committed a criminal offense; however, the court shall revoke the license of such driver for a period of:

(A) One (1) year, if the person does not have a prior conviction for a violation of § 55-10-401, § 39-13-213(a)(2), § 39-13-218, § 39-13-106, or

§ 55-10-418 in this state or a similar offense in any other jurisdiction.

(B) Two (2) years, if the person does have a prior conviction for an offense set out in subdivision (A).

(C) Two (2) years, if the court finds that the driver of a motor vehicle involved in an accident in which one or more persons suffered serious bodily injury violated this subsection by refusing to submit to such a test.

(D) Five (5) years, if the court finds that the driver of a motor vehicle involved in an accident in which one or more persons are killed, violated this subsection by refusing to submit to such a test.

For the purposes of this subpart, "prior conviction" means a conviction for one of the designated offenses the commission of which occurred prior to the D.U.I. arrest giving rise to the instant implied consent violation.

In addition to the consequences set forth in this section, if the court or jury finds that the driver violated the provisions of this subsection while driving on a revoked, suspended or cancelled license, when the person's privilege to do so is cancelled, suspended or revoked because of a conviction for vehicular assault under § 39-13-106, vehicular homicide under § 39-13-213, aggravated vehicular homicide under § 39-13-218 or driving under the influence of an intoxicant under § 55-10-401, such driver commits a Class A misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00) and shall be sentenced to a minimum mandatory jail or workhouse sentence of five (5) days which shall be served consecutively, day for day, and which sentence cannot be suspended.


SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it and shall apply to any violation of § 55-10-406 occurring on or after this date.

PASSED: June 6, 2000


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 23rd day of June 2000


DON SUNDQUIST, GOVERNOR